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15 UNITED STATES OF AMERICA

16 UNITED STATES DISTRICT COURT

17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 UNITED STATES OF AMERICA,  
19 Plaintiff,  
20 v.  
21 JASON EDWARD THOMAS CARDIFF,  
22 Defendant.

No. CR 5:23-00021-JGB

STIPULATION AND JOINT REQUEST FOR  
A PROTECTIVE ORDER REGARDING  
DISCOVERY CONTAINING PERSONAL  
IDENTIFYING INFORMATION;  
[PROPOSED] ORDER

23  
24 Plaintiff, United States of America, by and through its counsel  
25 of record, the United States Attorney for the Central District of  
26 California and Assistant United States Attorney VALERIE L.  
27 MAKAREWICZ and the Department of Justice, Consumer Protection Branch  
28 and Trial Attorney MANU J. SEBASTIAN, and defendant JASON EDWARD

THOMAS CARDIFF ("defendant"), by and through his counsel of record, STEPHEN G. LARSON (collectively the "parties"), for the reasons set forth below, request that the Court enter the proposed protective order (the "Protective Order") governing the use and dissemination of personal identifying information ("PII") of real persons pursuant to Federal Rule of Criminal Procedure Rule 16(d)(1).

#### Introduction and Grounds for Protective Order

1. Defendant is charged in this matter with violations of 18 U.S.C. § 1029(a)(5): access device fraud; 18 U.S.C. § 1028A(a)(1): aggravated identity theft; and 18 U.S.C. § 1512(b)(2)(B): witness tampering. Defendant is released on bond pending trial.

2. A protective order is necessary because the government intends to produce to the defense materials containing third parties' PII. The government believes that disclosure of this information without limitation risks the privacy and security of the information's legitimate owners. Because the government has an ongoing obligation to protect third parties' PII, the government cannot produce to defendant an unredacted set of discovery containing this information without the Court entering the Protective Order. Moreover, PII makes up a significant part of the discovery in this case and such information itself, in many instances, has evidentiary value. If the government were to attempt to redact all this information in strict compliance with Federal Rule of Criminal Procedure 49.1, the Central District of California's Local Rules regarding redaction, and the Privacy Policy of the United States Judicial Conference, the defense would receive a set of discovery that would be highly confusing and difficult to understand, and it would be challenging for defense counsel to

1 adequately evaluate the case, provide advice to defendant, or  
2 prepare for trial.

3 3. The purpose of the Protective Order is to (a) allow the  
4 government to comply with its discovery obligations while protecting  
5 this sensitive information from unauthorized dissemination, and  
6 (b) provide the defense with sufficient information to adequately  
7 represent defendant.

8 Definitions

9 4. The parties agree to the following definitions:

10 a. "PII Materials" includes any information that can be  
11 used to identify a person, including a name, address, date of birth,  
12 Social Security number, driver's license number, telephone number,  
13 account number, email address, or personal identification number.]

14 b. "Confidential Information" refers to any document or  
15 information containing PII Materials that the government produces to  
16 the defense pursuant to this Protective Order and any copies  
17 thereof.

18 c. "Defense Team" includes (1) defendant's counsel of  
19 record ("defense counsel"); (2) other attorneys at defense counsel's  
20 law firm who may be consulted regarding case strategy in this case;  
21 (3) attorney Stephen Cochell of the Cochell Law Firm; (4) defense  
22 investigators who are assisting defense counsel with this case;  
23 (5) retained experts or potential experts; and (6) paralegals, legal  
24 assistants, and other support staff to defense counsel who are  
25 providing assistance on this case. The Defense Team does not  
26 include defendant, defendant's family members, or any other  
27 associates of defendant.

28 Terms of the Protective Order

1           5.     The parties jointly request the Court enter the Protective  
2 Order, which will permit the government to produce Confidential  
3 Information in a manner that preserves the privacy and security of  
4 third parties. The parties agree that the following conditions in  
5 the Protective Order will serve these interests:

6           a.     The government is authorized to provide defense  
7 counsel with Confidential Information marked with the following  
8 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE  
9 ORDER." The government may put that legend on the digital medium  
10 (such as DVD or hard drive) or simply label a digital folder on the  
11 digital medium to cover the content of that digital folder. The  
12 government may also redact any PII contained in the production of  
13 Confidential Information.

14           b.     If defendant objects to a designation that material  
15 contains Confidential Information, the parties shall meet and  
16 confer. If the parties cannot reach an agreement regarding  
17 defendant's objection, defendant may apply to the Court to have the  
18 designation removed.

19           c.     Defendant and the Defense Team agree to use the  
20 Confidential Information solely to prepare for any pretrial motions,  
21 plea negotiations, trial, and sentencing hearing in this case, as  
22 well as any appellate and post-conviction proceedings related to  
23 this case.

24           d.     The Defense Team shall not permit anyone other than  
25 the Defense Team to have possession of Confidential Information,  
26 including defendant, while outside the presence of the Defense Team.

1 e. At no time, under no circumstance, will any  
2 Confidential Information be left in the possession, custody, or  
3 control of defendant, regardless of defendant's custody status.

4 f. Defendant may review PII Materials only in the  
5 presence of a member of the Defense Team, who shall ensure that  
6 defendant is never left alone with any PII Materials. At the  
7 conclusion of any meeting with defendant at which defendant is  
8 permitted to view PII Materials, defendant must return any PII  
9 Materials to the Defense Team, and the member of the Defense Team  
10 present shall take all such materials with him or her. Defendant  
11 may not take any PII Materials out of the room in which defendant is  
12 meeting with the Defense Team.

13 g. Defendant may see and review Confidential Information  
14 as permitted by this Protective Order, but defendant may not copy,  
15 keep, maintain, or otherwise possess any Confidential Information in  
16 this case at any time. Defendant also may not write down or  
17 memorialize any data or information contained in the Confidential  
18 Information.

19 h. The Defense Team may review Confidential Information  
20 with a witness or potential witness in this case, including  
21 defendant. A member of the Defense Team must be present if PII  
22 Materials are being shown to a witness or potential witness. Before  
23 being shown any portion of Confidential Information, however, any  
24 witness or potential witness must be informed of, and agree in  
25 writing to be bound by, the requirements of the Protective Order.  
26 No member of the Defense Team shall permit a witness or potential  
27 witness to retain Confidential Information or any notes generated  
28 from Confidential Information.

1           i.     The Defense Team shall maintain Confidential  
2 Information safely and securely, and shall exercise reasonable care  
3 in ensuring the confidentiality of those materials by (1) not  
4 permitting anyone other than members of the Defense Team, defendant,  
5 witnesses, and potential witnesses, as restricted above, to see  
6 Confidential Information; (2) not divulging to anyone other than  
7 members of the Defense Team, defendant, witnesses, and potential  
8 witnesses, the contents of Confidential Information; and (3) not  
9 permitting Confidential Information to be outside the Defense Team's  
10 offices, homes, vehicles, or personal presence.

11           j.     To the extent that defendant, the Defense Team,  
12 witnesses, or potential witnesses create notes that contain, in  
13 whole or in part, Confidential Information, or to the extent that  
14 copies are made for authorized use by members of the Defense Team,  
15 such notes, copies, or reproductions become Confidential Information  
16 subject to the Protective Order and must be handled in accordance  
17 with the terms of the Protective Order.

18           k.     The Defense Team shall use Confidential Information  
19 only for the litigation of the instant criminal case and for no  
20 other purpose. Litigation of this matter includes any appeal filed  
21 by defendant and any motion filed by defendant pursuant to 28 U.S.C.  
22 § 2255 pertaining to the instant criminal case. In the event that a  
23 party needs to file Confidential Information with the Court or  
24 divulge the contents of Confidential Information in court filings,  
25 the filing should be made under seal. If the Court rejects the  
26 request to file such information under seal, the party seeking to  
27 file such information publicly shall provide advance written notice  
28 to the other party to afford such party an opportunity to object or

1 otherwise respond to such intention. If the other party does not  
2 object to the proposed filing, the party seeking to file such  
3 information shall redact any PII Materials make all reasonable  
4 attempts to limit the divulging of PII Materials.

5           1. The parties agree that any Confidential Information  
6 inadvertently produced in the course of discovery prior to entry of  
7 the Protective Order shall be subject to the terms of the Protective  
8 Order. If Confidential Information was inadvertently produced prior  
9 to entry of the Protective Order without being marked "CONFIDENTIAL  
10 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government  
11 shall reproduce the material with the correct designation and notify  
12 defense counsel of the error. The Defense Team shall take immediate  
13 steps to destroy the unmarked material, including any copies.

14           m. Confidential Information shall not be used by the  
15 defendant or Defense Team, in any way, in any other matter, absent  
16 an order by this Court. All materials designated subject to the  
17 Protective Order maintained in the Defense Team's files shall remain  
18 subject to the Protective Order unless and until such order is  
19 modified by this Court. Within 30 days of the conclusion of  
20 appellate and post-conviction proceedings, defense counsel shall  
21 return all PII Materials certify that such materials have been  
22 destroyed, or certify that such materials are being kept pursuant to  
23 the California Business and Professions Code and the California  
24 Rules of Professional Conduct.

25           n. In the event that there is a substitution of counsel  
26 prior to when such documents must be returned, new defense counsel  
27 must be informed of, and agree in writing to be bound by, the  
28 requirements of the Protective Order before the undersigned defense

1 counsel transfers any Confidential Information to the new defense  
2 counsel. New defense counsel's written agreement to be bound by the  
3 terms of the Protective Order must be returned to the Assistant U.S.  
4 Attorney assigned to the case. New defense counsel then will become  
5 the Defense Team's custodian of materials designated subject to the  
6 Protective Order and shall then become responsible, upon the  
7 conclusion of appellate and post-conviction proceedings, for  
8 (1) returning to the government, certifying the destruction of, or  
9 retaining pursuant to the California Business and Professions Code  
10 and the California Rules of Professional Conduct all PII Materials.

11 o. Defense counsel agrees to advise defendant and all  
12 members of the Defense Team of their obligations under the  
13 Protective Order and ensure their agreement to follow the Protective  
14 Order, prior to providing defendant and members of the Defense Team  
15 with access to any materials subject to the Protective Order.

16 p. Defense Counsel has conferred with defendant  
17 regarding this stipulation and the proposed order thereon, and  
18 defendant agrees to the terms of the proposed order.

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20 //

21 //



q. Accordingly, the parties have agreed to request that the Court enter a protective order in the form submitted herewith.

IT IS SO STIPULATED.

DATED: December 13, 2023

E. MARTIN ESTRADA  
United States Attorney

MACK E. JENKINS  
Assistant United States Attorney  
Chief, Criminal Division

/s/ Valerie L. Makarewicz  
MANU J. SEBASTIAN  
Trial Attorney  
VALERIE L. MAKAREWICZ  
Assistant United States Attorney

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

DATED: December 13, 2023

/s/ Stephen G. Larson (via e-  
mailed authorization  
STEPHEN G. LARSON  
Attorney for Defendant  
JASON EDWARD THOMAS CARDIFF